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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,122	09/26/2003	Yuichi Ikeda	17057	1307
23389	7590	09/16/2005	EXAMINER	
SCULLY SCOTT MURPHY & PRESSER, PC 400 GARDEN CITY PLAZA SUITE 300 GARDEN CITY, NY 11530			KASZTEJNA, MATTHEW JOHN	
			ART UNIT	PAPER NUMBER
			3739	

DATE MAILED: 09/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/673,122	IKEDA ET AL.	
	Examiner	Art Unit	
	Matthew J. Kasztejna	3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 26 September 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5 and 7-12 is/are rejected.
- 7) Claim(s) 6 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 26 September 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/26/03</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Specification*

The disclosure is objected to because of the following informalities: the term "universal cord" is improperly referred to as "universal code" throughout the application.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S Patent No. 4,982,725 to Hibino et al. in view of U.S. Patent No. 6,793,622 to Konomura et al.

**In regard to claims 1-4, and 10-12,** Hibino et al. disclose an electric bending endoscope comprising: a bending portion arranged to an inserting portion; a bending driving unit which bends the bending portion, the bending driving unit including a motor which generates driving force for bending the bending portion, a first unit which holds the motor, and a second unit which includes a driving force transmitting member that transmits the driving force of the motor to bend the bending portion by the driving force of the motor (see Fig. 1); but is silent with respect to a buffering member which connects the first unit to an outer member of the inserting portion, a connecting code, and a switch arranged to the electric bending endoscope, the buffering member

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absorbing external force generated during the operation of the electric bending endoscope. Konomura et al. teach of an analogous electric bending endoscope having a buffering member with a predetermined hardness located in the pulley 34 rotatably as shown in Fig 7a (see Col. 8, Lines 39-65) and can inherently be positioned in a variety of positions so as to maximize the amount of force absorption. It would have been obvious to one skilled in the art at the time the invention was made to include a buffering material in the apparatus of Hibino et al. in order to absorb any external forces generated during operation of the endoscope as taught by Konomura et al.

**In regard to claim 5,** Hibino et al. disclose an electric bending endoscope, further comprising: a fixing member which fixes the inner frame of the first unit and a main frame arranged to the second unit (see Fig. 1).

**In regard to claim 7,** Hibino et al. disclose an electric bending endoscope, wherein a wheel is arranged to a driving shaft of a driving force transmitting member of the second unit, and a rotating shaft of the wheel is arranged in front of the operating portion on a side cross-section of the operating portion in the electric bending endoscope, with respect to the central axis of the inserting portion (see Figs 1 and 34).

Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S Patent No. 4,982,725 to Hibino et al. in view of U.S. Patent No. 6,793,622 to Konomura et al. in further view of U.S Patent No. 5,609,563 to Suzuki et al.

**In regard to claims 8-9,** Hibino et al. and Konomura et al. disclose an electric bending endoscope having an operation lever 16 arranged to the operating portion for operating the bending driving unit, but are silent with respect to an angle formed

between the center axis of the inserting portion in the electric bending endoscope and the center axis of the operation lever at the neutral position thereof, and the angle is (135 degrees +/- 15 degrees), an inclined angle of the operation lever is +/- 30 degrees from the center of the operation lever, and the inclined center position of the operation lever is arranged in front of the operating portion, with respect to the center position of the inserting portion in the electric bending endoscope. Suzuki et al teach of an analogous electric bending endoscope wherein the operating portion of the endoscope is formed between the center axis of the inserting portion and the center axis of the operation lever as seen in Figs. 1 and 4. It would have been obvious to one skilled in the art at the time the invention was made to construct the operating portion of the apparatus of Hibino et al. and Konomura et al. at an angle in order to provide a more comfortable fitting during use for the operator of the instrument as taught by Suzuki et al.

***Allowable Subject Matter***

Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Kasztejna whose telephone number is (571) 272-6086. The examiner can normally be reached on Mon-Fri, 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJK  
M<sup>K</sup>  
9/8/05

  
BEVERLY M. FLANAGAN  
PRIMARY EXAMINER